

pass and fail decision numbers associated with the cumulative number of vehicles tested are determined by use of the tables in appendix X of this part appropriate to the projected sales as made by the heavy-duty engine or heavy-duty vehicle manufacturer in its Application for Certification, or as made by the light-duty truck manufacturer in its report submitted under § 600.207-80(a)(2) of this chapter (Automobile Fuel Economy Regulations). In the tables in appendix X of this part, sampling plan "stage" refers to the cumulative number of vehicles or engines tested. Once a pass decision has been made for a particular pollutant associated with a particular test procedure pursuant to § 86.1008-2001(a), the number of vehicles or engines whose final deteriorated test results exceed the emission standard for that pollutant may not be considered any further for purposes of the audit.

(2) *CST criteria only.* For CST testing pursuant to subpart O, a pass or fail decision is determined according to the pass/fail criteria described in paragraph (c)(1) of this section, except that for each vehicle, the CST in its entirety is considered one pollutant.

(d) Passing or failing of an SEA audit occurs when the decision is made on the last vehicle or engine required to make a decision under paragraph (c) of this section.

(e) The Administrator may terminate testing earlier than required in paragraph (c) of this section.

[59 FR 16309, Apr. 6, 1994]

§ 86.1012-84 Suspension and revocation of certificates of conformity.

(a) The certificate of conformity is suspended with respect to any engine or vehicle failing pursuant to paragraph (b) of § 86.1010-84 effective from the time that testing of that engine or vehicle is completed.

(b) The Administrator may suspend the certificate of conformity for a configuration which does not pass an SEA, pursuant to paragraph § 86.1010-84(c), based on the first test or all tests conducted on each engine or vehicle. This suspension will not occur before ten days after failure to pass the audit.

(c)-(d) [Reserved]

(e) If the results of testing pursuant to these regulations indicate that engines or vehicles of a particular configuration produced at one plant of a manufacturer do not conform to the regulations with respect to which the certificate of conformity was issued, the Administrator may suspend the certificate of conformity with respect to that configuration for engines or vehicles manufactured by the manufacturer at all other plants.

(f) [Reserved]

(g) The Administrator shall notify the manufacturer in writing of any suspension or revocation of a certificate of conformity in whole or in part: *Except*, That the certificate is immediately suspended with respect to any failed engines or vehicles as provided for in paragraph (a) of this section.

(h) The Administrator may revoke a certificate of conformity for a configuration when the certificate has been suspended pursuant to paragraph (b), (c) or (e) of this section if the proposed remedy for the nonconformity, as reported by the manufacturer to the Administrator, is one requiring a design change or changes to the engine and/or emission control system as described in the Application for Certification of the affected configuration.

(i) Once a certificate has been suspended for a failed engine or vehicle as provided for in paragraph (a) of this section, the manufacturer shall take the following actions:

(1) Before the certificate is reinstated for that failed engine or vehicle,

(i) Remedy the nonconformity, and

(ii) Demonstrate that the engine or vehicle conforms to applicable standards or compliance levels by retesting the engine or vehicle in accordance with these regulations; and

(2) Submit a written report to the Administrator, after successful completion of testing on the failed engine or vehicle, which contains a description of the remedy and test results for each engine or vehicle in addition to other information that may be required by this regulation.

(j) Once a certificate for a failed configuration has been suspended pursuant to paragraph (b), (c) or (e) of this section, the manufacturer shall take the

following actions before the Administrator will consider reinstating the certificate:

(1) Submit a written report to the Administrator which identifies the reason for the noncompliance of the engines or vehicles, describes the proposed remedy, including a description of any proposed quality control and/or quality assurance measures to be taken by the manufacturer to prevent future occurrences of the problem, and states the date on which the remedies will be implemented; and

(2) Demonstrate that the engine or vehicle configuration for which the certificate of conformity has been suspended does in fact comply with these regulations by testing engines or vehicles selected from normal production runs of that engine or vehicle configuration, at the plant(s) or associated storage facilities specified by the Administrator, in accordance with the conditions specified in the initial test order. If the manufacturer elects to continue testing individual engines or vehicles after suspension of a certificate, the certificate is reinstated for any engine or vehicle actually determined to be in conformance with the applicable standards or compliance levels through testing in accordance with the applicable test procedures, provided that the Administrator has not revoked the certificate pursuant to paragraph (h) of this section.

(k) Once the certificate has been revoked for a configuration and the manufacturer desires to continue introduction into commerce of a modified version of that configuration, the following actions shall be taken before the Administrator may consider issuing a certificate for that modified configuration:

(1) If the Administrator determines that the proposed change(s) in engine or vehicle design may have an effect on emission performance deterioration or, in the case of light-duty trucks, on fuel economy, the Administrator shall notify the manufacturer, within five (5) working days after receipt of the report in paragraph (h) of this section, whether subsequent testing under this subpart will be sufficient to evaluate the proposed change or changes or

whether additional testing will be required; and

(2) After implementing the change or changes intended to remedy the nonconformity, the manufacturer shall demonstrate that the modified engine or vehicle configuration does in fact conform with these regulations by testing engines or vehicles selected from normal production runs of that modified engine or vehicle configuration in accordance with the conditions specified in the initial test order. This testing will be considered by the Administrator to satisfy the testing requirements of § 86.078-32 or § 86.079-33 if the Administrator has so notified the manufacturer. If the subsequent audit results in passing of the audit at the level of the standards or compliance levels, if applicable, the Administrator shall reissue or amend the certificate, as the case may be, to include that configuration, provided that the manufacturer has satisfied the testing requirements of paragraph (k)(1) of this section. If the subsequent audit is failed, the revocation remains in effect. Any design change approvals under this subpart are limited to the configuration affected by the test order.

(l) At any time subsequent to an initial suspension of a certificate of conformity for a test engine or vehicle pursuant to paragraph (a) of this section, but not later than fifteen (15) days or such other period as may be allowed by the Administrator after notification of the Administrator's decision to suspend or revoke a certificate of conformity in whole or in part pursuant to paragraphs (b), (c), (d), (e), or (h) of this section, a manufacturer may request a hearing as to whether the tests have been properly conducted or any sampling methods have been properly applied.

(m) After the Administrator suspends or revokes a certificate of conformity pursuant to this section or notifies a manufacturer of his intent to suspend, revoke or void a certificate of conformity under paragraph § 86.087-30(e), and prior to the commencement of a hearing under § 86.1014-84, if the manufacturer demonstrates to the Administrator's satisfaction that the decision

to suspend, revoke or void the certificate was based on erroneous information, the Administrator shall reinstate the certificate.

(n) To permit a manufacturer to avoid storing non-test engines or vehicles when conducting an audit of a configuration subsequent to suspension or revocation of the certificate of conformity for that configuration resulting from failure of an SEA, it may request that the Administrator conditionally reinstate the certificate for that configuration. The Administrator may reinstate the certificate subject to the condition that the manufacturer consents to recall all engines or vehicles of that configuration produced from the time the certificate is conditionally reinstated if the configuration fails the subsequent audit at the level of the standard and to remedy any non-conformity at no expense to the owner.

[45 FR 63772, Sept. 25, 1980, as amended at 48 FR 52209, Nov. 16, 1983; 50 FR 35387, Aug. 30, 1985]

§ 86.1012-97 Suspension and revocation of certificates of conformity.

(a) The certificate of conformity is immediately suspended with respect to any engine or vehicle failing pursuant to § 86.1010(b) effective from the time that testing of that engine or vehicle is completed.

(b)(1) *Selective Enforcement Audits.* The Administrator may suspend the certificate of conformity for a configuration that does not pass a Selective Enforcement Audit pursuant to § 86.1010(c) based on the first test, or all tests, conducted on each engine or vehicle. This suspension will not occur before ten days after failure to pass the audit.

(2) *California Assembly-Line Quality Audit Testing.* The Administrator may suspend the certificate of conformity for a 50-state engine family or configuration tested in accordance with procedures prescribed under § 86.1008 that the Executive Officer has determined to be in non-compliance with one or more applicable pollutants based on Chapter 1 or Chapter 2 of the California Regulatory Requirements Applicable to the National Low Emission Vehicle Program (October, 1996), if the results of vehicle testing conducted by the manu-

facturer do not meet the acceptable quality level criteria pursuant to § 86.1010. The California Regulatory Requirements Applicable to the National Low Emission Vehicle Program (October, 1996) are incorporated by reference (see § 86.1). A vehicle that is tested by the manufacturer in accordance with procedures prescribed under § 86.1008 and determined to be a failing vehicle pursuant to Chapter 1 or Chapter 2 of the California Regulatory Requirements Applicable to the National Low Emission Vehicle Program (October, 1996) will be treated as a failed vehicle described in § 86.1010(b), unless the manufacturer can show that the vehicle would not be considered a failed vehicle using the test procedures specified in § 86.1008. This suspension will not occur before ten days after the manufacturer receives written notification that the Administrator has determined the 50-state engine family or configuration exceeds one or more applicable federal standards.

(c)(1) *Selective Enforcement Audits.* If the results of engine or vehicle testing pursuant to the requirements of this subpart indicate that engines or vehicles of a particular configuration produced at more than one plant do not conform to the regulations with respect to which the certificate of conformity was issued, the Administrator may suspend the certificate of conformity with respect to that configuration for engines or vehicles manufactured by the manufacturer in other plants of the manufacturer.

(2) *California Assembly-Line Quality Audit Testing.* If the Administrator determines that the results of vehicle testing pursuant to Chapter 1 or Chapter 2 of the California Regulatory Requirements Applicable to the National Low Emission Vehicle Program (October, 1996) and the procedures prescribed in § 86.1008 indicate the vehicles of a particular 50-state engine family or configuration produced at more than one plant do not conform to applicable regulations with respect to which a certificate of conformity was issued, the Administrator may suspend, pursuant to paragraph (b)(2) of this section, the certificate of conformity with respect to that engine family or configuration for vehicles manufactured by